

Internal Revenue Service
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Department of the Treasury

Washington, DC 20224

Date [REDACTED]

Surname [REDACTED]

Contact Person: [REDACTED]

Telephone Number: [REDACTED]

In Reference to: [REDACTED]

Date: [REDACTED]

Employer Identification Number: [REDACTED]

Dear Taxpayer:

This is in response to your Form 1023, Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code.

You were formed pursuant to [REDACTED] of the [REDACTED]. The resolution authorizes the county to purchase [REDACTED] to preserve farmland in the county. While the resolution outlines the creation of a county board and its functions, it does not specify that the operation of the board must be exclusively for charitable purposes. Nor does it provide for the distribution of assets on dissolution.

As part of the resolution the Commissioners approved the creation of the [REDACTED] to implement the [REDACTED], Act of June 30, 1981, P.L. 128, No. 43, 3 Pennsylvania Statutes § 901 et seq. Section 914.1(b) of the statute provides that the county governing body may authorize a program to purchase easements to be carried out by a county board. Under the statute, this board is charged with the establishment of rules and regulations governing the administration of the program.

All of the members of the Board are appointees of the [REDACTED] and serve without compensation. The board has a single employee which is an employee of county.

Section 501(a) of the Internal Revenue Code provides for the exemption from federal income tax of organizations described in sections 501(c).

Section 501(c)(3) of the Code describes corporations, trusts, foundations, or funds organized and operated exclusively for charitable purposes.

Section 1.501(c)(3)-1(b) of the Income Tax Regulations provides that the articles of organization must limit an organization's purposes to one or more exempt purposes. The articles of organization must also provide for distribution for exempt purposes upon dissolution.

Section 1.501(c)(3)-1(d)(2) of the Income Tax Regulations provides that the term "charitable" is used in its generally accepted legal sense and is not construed as limited by the separate enumeration of exempt purposes in section 501(c)(3) of the Code. Charitable includes the lessening of the burdens of government and the combatting of community deterioration.

Rev. Rul. 75-207, 1975-1 C.B. 361, holds that preservation of an island ecosystem and historical sites achieves a charitable purpose.

Rev. Rul. 76-204, 1976-1 C.B. 152, holds that the preservation of the natural environment is charitable. This ruling cites the National Environmental Policy Act of 1969, 42 U.S.C. § 4321 which recognizes that the protection of natural resources serves a broad public benefit.

Section 902 of the Agricultural Area Security Law, 3 P.S. § 902, establishes a public policy of the Commonwealth to conserve productive agricultural land through the purchase of easements to restrict land use for agricultural purposes.

Section 914.1(a) of the Agricultural Area Security Law provides for the establishment of a State Agricultural Land Preservation Board within the Department of Agriculture to administer the program for the purchase of agricultural conservation easements by the Commonwealth.

Section 914.1(b) of the Agricultural Area Security Law provides that after the establishment of an Agricultural Security Area the county governing body may authorize a program to be administered by the County Agricultural Land Preservation Board for purchasing agricultural conservation easements from landowners whose land is within an agricultural security area. The Board's duty include (1) the adoption of regulations for the

administration of a countywide program and (2) the purchase easements in the name of the county using county funds.

Section 914.1(d) of the Agricultural Area Security Law provides that the State Agricultural Land Preservation Board must approve county programs and certain county easement purchases.

Section 914.1(g) of the Agricultural Area Security Law provides that the State Board allocates state monies to the counties for the purchase of agricultural easements.

Resolution 34-1990 of the Board of County Commissioners for Westmoreland County (1) authorizes the establishment of a program to purchase agricultural easements and (2) provides for the creation of County Agricultural Land Preservation Board to administer the program.

Rev. Rul. 60-384, 1960-2 C.B. 172, provides that a wholly-owned state or municipal instrumentality which is a separate entity and which is organized and operated exclusively charitable purposes may be described in section 501(c)(3) of the Code. However, a state or municipality would not qualify as an organization described in section 501(c)(3) since its purposes are not exclusively those described in section 501(c)(3). Similarly, a branch or department that is an integral part of the government would not qualify as an organization described in section 501(c)(3). Furthermore, even if an organization is a separate entity it would not qualify as an organization described in section 501(c)(3) if it is clothed with regulatory powers so that it is not a clear counterpart of an organization described in section 501(c)(3).

Although the conservation of natural resources may constitute a charitable purpose, your qualification for exemption under section 501(c)(3) of the Code depends on your satisfaction of the requirements of Rev. Rul. 60-384. supra.

First, you must be a separate entity and not merely be a branch or arm of a governmental unit. This determination is based on the surrounding facts and circumstances. Most relevant is the creating resolution and authorizing statute. The statute provides that the State Agricultural Land Preservation Board is established within the Department of Agriculture. As such, the State Board is an arm of the government. It approves and funds the county programs operating under the statute.

The statute further provides that county programs will be established by the county governing bodies following state guidelines. The county governing body may then establish a

[REDACTED]

program to be administered by [REDACTED]. The county governing body appoints the members of the county board to administer the program.

The administration of a governmental program would ordinarily be within the purview of an arm of the governmental unit. Furthermore, the statute imposes the duty on the county board to adopt regulations for the administration of the countywide program. This function would also ordinarily be a governmental function. In fact, the statute makes clear that county boards make purchase agreements in the name of the county and that they use county money to purchase the easement in the name of the county. Thus, the statute authorizes the creation of county boards to administer this governmental program at the local level.

The resolution creating you does not deviate from the statute. The county governors authorize a program for the county to purchase [REDACTED] to administer the county program. The county governors also appoint your board. Finally, your sole employee is a [REDACTED].

Based on the above-stated factors we conclude that you are not a separate entity from the county government. You have not presented a creating document that demonstrates that you are a body corporate and politic. The facts demonstrate that you are an arm of the governmental unit formed to carry out a governmental program. Accordingly, you do not qualify as an organization described in section 501(c)(3) because you are not organized and operated to carry out charitable purposes.

Even if your creating document created you as a separate entity as required under Rev. Rul. 60-384, your operation as an integral part of a government program would still preclude qualification for tax-exemption. Furthermore, your organizing document does not satisfy the organizational requirements of section 1.501(c)(3)-1(b)(1) of the regulations. The resolution does not limit your purpose to one or more exempt purposes. Nor does it provide for the distribution of assets for charitable purposes upon dissolution.

You have the right to protest this ruling if you believe it is incorrect. To protest, you should submit a statement of your views, with a full explanation of your reasoning. This statement must be submitted within 30 days from today and must be signed by one of your principal officers. When sending a protest or other correspondence with respect to this case, you will expedite its receipt by placing the following symbols on the envelope:

[REDACTED]

[REDACTED] These symbols do not refer to your case, but rather to its location.

You also have the right to a conference in this office after your protest statement is submitted. If you desire a conference, you must request it when you file your protest statement. If you are to be represented by someone who is not one of your principal officers, that person must file a proper power of attorney and otherwise qualify under our Conference and Practice Requirements.

If we do not hear from you within 30 days, this ruling will become final and copies will be forwarded to the District Director for your key district. Thereafter, any questions about your federal income tax status should be addressed to your District Director. The appropriate State Officials will be notified of this action in accordance with section 6104(c) of the Code.

Sincerely,

[REDACTED]
[REDACTED] ons
[REDACTED]

	Initiator	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer
Code	[REDACTED]	[REDACTED]				
Surname	[REDACTED]	[REDACTED]				
Date	[REDACTED]	[REDACTED]				